

**COUNTY OF LOUDOUN**  
**DEPARTMENT OF PLANNING**  
**MEMORANDUM**

**DATE:** March 5, 2009

**TO:** Loudoun County Planning Commission

**FROM:** Michael Elabarger, Project Manager

**SUBJECT:** March 12, 2009 Planning Commission Work Session - **SPEX 2008-0022**  
Cider Mill Kennel

**BACKGROUND**

Cerberus Farms, LLC of Purcellville, Virginia has submitted an application for a special exception to permit a kennel to house and train up to 40 bomb/drug sniffing dogs for use in the law enforcement and security professions. A maximum of ten (10) employees is proposed with no more than four (4) employees residing at any time in the existing dwelling. A new 4,000 square foot (40'x100') kennel building with outdoor runs is proposed to supplement the existing buildings on the property that would be utilized for this use.

The 20.97 acre property is in the AR-1 (Agricultural Rural-1) zoning district, subject to the Revised 1993 Zoning Ordinance, and is also located partially within the FOD (Floodplain Overlay District) and is subject to Section 5-1000, Scenic Creek Valley Buffer. The Revised General Plan designates this area for rural economy uses and limited residential development. See Attachment 1 for location.

**PLANNING COMMISSION PUBLIC HEARING**

The Planning Commission held a public hearing on this application on February 19, 2009; one (1) person spoke, noting concerns with noise impacts, the maximum number of dogs requested, and impacts related to stormwater run-off and animal wastes. The Commission discussed the following with the applicant and/or staff: when and why the drive-way and parking areas were recently paved; status of entrance apron; outdoor runs in proposed new kennel building; compliance with proposed hours of operation. The Commission asked that, at a future work session, the following be provided and/or discussed:

- A description of all plans for development of the property and operation of the kennel business, including how training is performed, the number of dogs outside and in the kennels (see Applicant's revised Statement of Justification, Attachment 5);
- A description of the new asphalt and main entrance (photos provided by Staff, Attachment 3);

- Detail of the Scenic Creek Valley buffer and the 50' River and Stream Corridor Resource management buffer (graphics provided by the applicant; Staff took excerpts and annotated them, see Attachment 4); and
- Comment from the Environmental Review Team (ERT) regarding the impacts/benefits of the buffer encroachment by the proposed gravel driveway (to be provided at the work session).

The Planning Commission voted 5-0-4 (Commissioners Klancher, Brodrick, Keeney, and Syska absent) to forward the application to a work session for further discussion.

## UPDATES

The Conditions of Approval (now dated March 5, 2009) were revised by staff, based on comments heard from the Planning Commission; see Attachment 2. Conditions referencing applicable sections of the Facilities Standards Manual (FSM) or Zoning Ordinance have been removed, as the applicant must comply with them. The current Conditions regulate the number of dogs, employees, hours of operation, outdoor activities, driveway improvements, right-of-way reservation, and substantial conformance to application materials.

## STAFF RECOMMENDATION

Staff recommends the Planning Commission forward SPEX 2008-0022, Cider Mill Kennel, to the Board of Supervisors with a recommendation of approval, subject to the Conditions of Approval dated March 5, 2009, and based on the Findings in this staff report

## MOTIONS

1. I move that the Planning Commission forward SPEX 2008-0022, Cider Mill Kennel, to the Board of Supervisors with a recommendation of approval, subject to the Conditions of Approval dated March 5, 2009, and based on the Findings in this staff report.

Or,

2. I move that the Planning Commission forward SPEX 2008-0022, Cider Mill Kennel, to a work session for further discussion.

Or,

3. I move that the Planning Commission forward SPEX 2008-0022, Cider Mill Kennel, to the Board of Supervisors with a recommendation of denial based on the following findings:

- \_\_\_\_\_
- \_\_\_\_\_

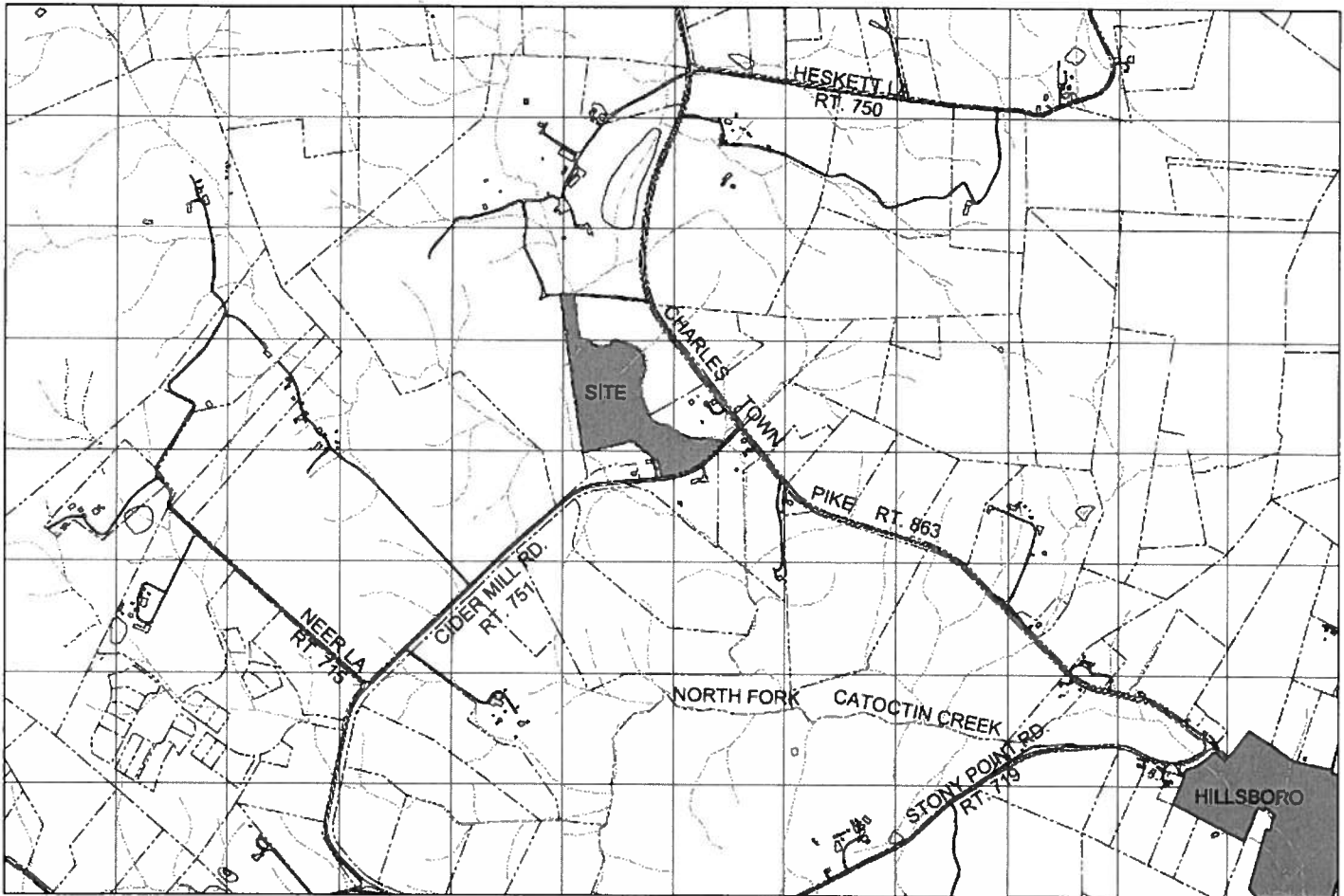
## FINDINGS FOR APPROVAL

1. The proposed Special Exception use – a kennel – subject to the Conditions of Approval, is consistent with the planned land use policies of the Revised General Plan.
2. The proposed Special Exception use – a kennel – subject to Conditions of Approval, complies with the applicable requirements of the Revised 1993 Zoning Ordinance.
3. The proposed Special Exception use – a kennel – is an example of a rural economy use that can co-exist with the predominant agricultural and residential land use pattern.
4. Adequate provisions and commitments have been provided to mitigate potential noise and light impacts on the adjoining residential properties.

## ATTACHMENTS

1. Vicinity Map
2. Conditions of Approval, dated March 5, 2009
3. Photos of driveway and parking areas.  
(Gravel taken August 14, 2008; asphalt taken February 26, 2009)
4. Applicant Submission; Staff Annotated Excerpts of Graphics depicting River and Stream Corridor Elements in vicinity of proposed new kennel building:
  1. 100-Year Floodplain
  2. 150' Scenic Creek Valley buffer
  3. Steep and Very Steep Slopes
  4. River and Stream Corridor 50' Management Buffer measured from Very Steep Slopes
  5. 100 Year Floodplain boundary and 50' Management Buffer measured from Very Steep Slopes
5. Applicant Submission; Statement of Justification (revised dated March 4, 2009)

### VICINITY MAP



**Directions:** From Leesburg, take Harry Byrd Highway (Route 7) west to Clarks Gap; take exit for Route 9 (west). Follow Route 9 through the Town of Hillsboro. Turn left onto Cider Mill Road (Route 751). Site is the first property on the right (north) side at 14807 Cider Mill Road.

## CONDITIONS OF APPROVAL

(03/05/09)

1. Substantial Conformance – The proposed Special Exception use, a kennel in the AR-1 (Agricultural Rural-1) zoning district, shall be developed in substantial conformance with Sheets 1, 3, and 4 of the Special Exception Plat set, dated July 2008, and revised through January 7, 2009 (“the Plat”), as well as the undated elevations submitted to the County November 25, 2008, prepared by Houndquarters, Inc. of Phoenix, Arizona, entitled “New Facility for: Covenant Canine – Fairfax, VA”, “Project: 0844” labeled A1 and A2. Approval of this application for Tax Map /15////////25/ (PIN #548-10-4925-000) shall not relieve the property from compliance with any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.
2. Number of Dogs – There shall be no more than forty (40) dogs on the property at any one time.
3. Employees in Existing Dwelling – There shall be no more than four (4) unrelated persons staying overnight in the existing single-family detached dwelling on the property at any one time. Said persons shall be employees of, or be contracted for employment with, the kennel business operators.
4. Hours of Operation – Outdoor kenneling or outdoor training activities of dogs shall occur only between 10:00 a.m. and 4:00 p.m. daily. This condition does not apply to indoor kenneling.
5. Outdoor Dog Activities – Any outdoor activities involving dogs shall adhere to the following standards of operation:
  - a. No more than eight (8) dogs shall be outside any kennel or other building on the property for any purposes at any one time;
  - b. Training shall only occur within the 100’ kennel setback perimeter from the property boundaries as shown on the Plat, but not within the 50’ River and Stream Corridor management buffer or the 150’ Scenic Creek Valley Buffer;
  - c. Any outdoor activity involving dogs shall occur in a sufficiently fenced area;
  - d. For the purposes of this condition, a dedicated outdoor dog training area may include features such as but not limited to graded areas, lighting fixtures, or structures/equipment (either permanent or temporary).
  - e. When not within fenced-in areas, dogs outside any of the buildings on the property shall be on leashes and supervised by kennel staff at a ratio of 1:1.
  - f. The area on the Plat identified as an existing horse paddock, adjacent to Cider Mill Road, shall not be used in any manner or activity involving dogs.
6. Driveway Improvements – The existing circular ‘eyelash’ driveway in front of the existing residence adjacent to Cider Mill Road shall be removed and grassed over.

7. Cider Mill Road Right-of-Way – The Applicant shall reserve a twenty-five foot (25') strip of ground, upon and across its entire frontage adjacent to, and measured from the center-line of, Cider Mill Road for future dedication to the Board of Supervisors for public street purposes, with such dedication to be granted at the request of the County and at no public cost. Such reservation shall be granted to the County by Deed, in form approved by the County Attorney, recorded prior to the approval of the site plan for the kennel.

Note: The Applicant has agreed to provide a one time fire and rescue contribution to the County in the amount of \$0.10 per square foot of non-residential floor area construction for equal distribution between the primary fire and rescue servicing companies. This contribution shall be made at the time of issuance of the applicable zoning permits. This contribution shall escalate annually from the base year of 1988 and change effective each January 1<sup>st</sup> thereafter, based on the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics.



**Figure 1 - Circular Driveway, eastern entrance**





**Figure 2 - Circular Driveway, western entrance, gravel/asphalt**





**Figure 3 - Circular Driveway, top near house**





**Figure 4** – Main driveway, gravel / asphalt





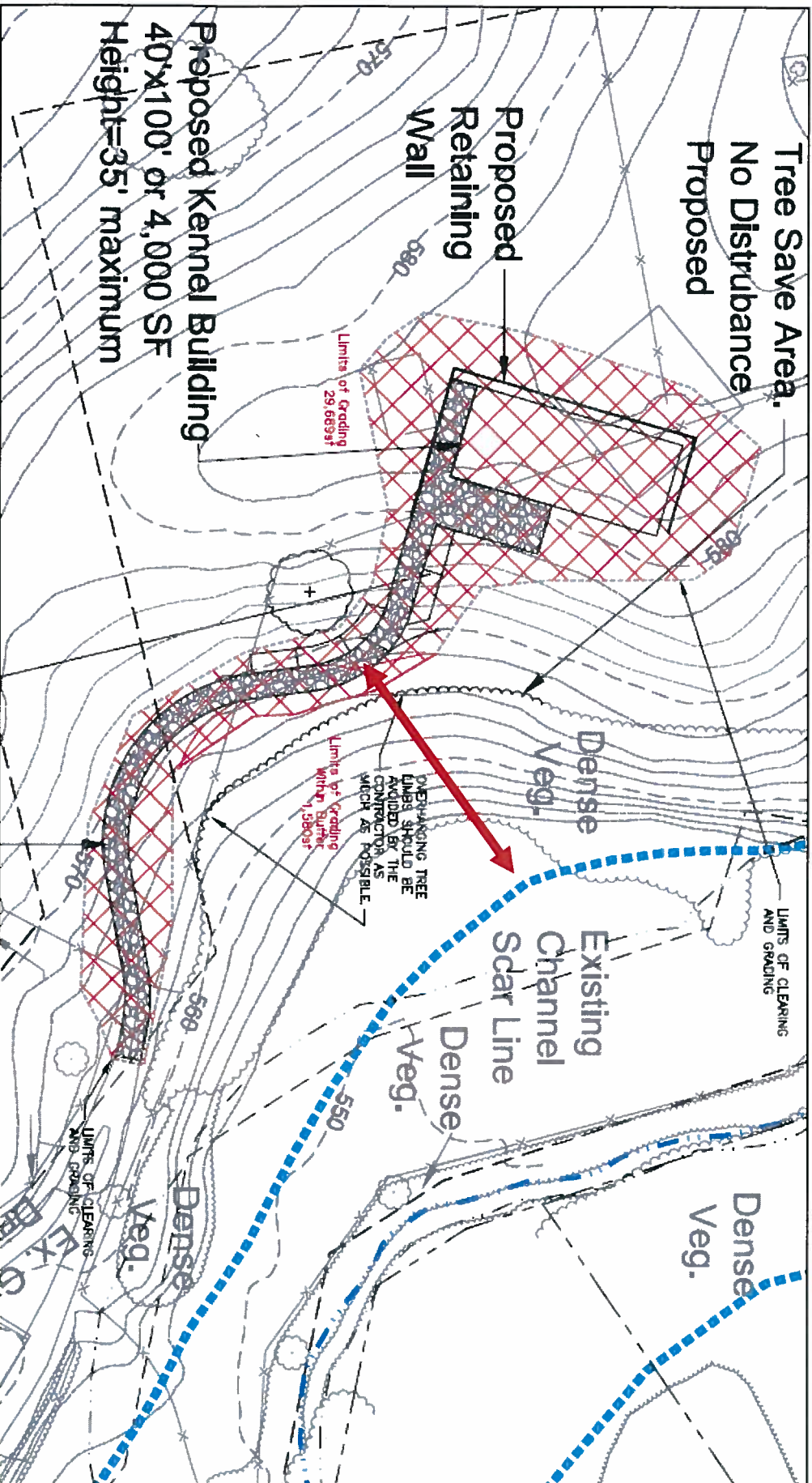
**Figure 5** – Main parking area behind single-family dwelling – gravel/asphalt





# **ATTACHMENT 4.1:** **100-YEAR FLOODPLAIN BOUNDARY**

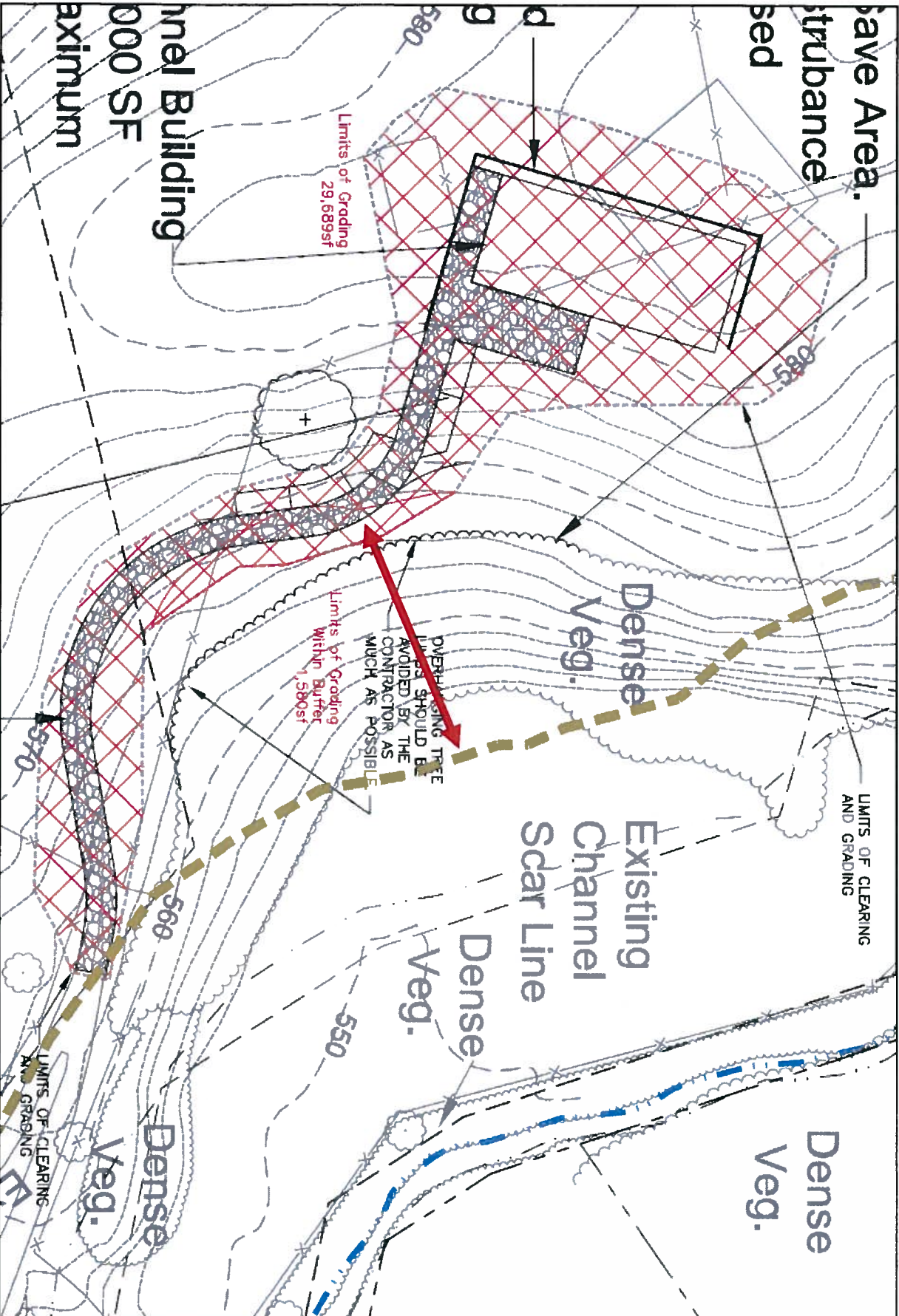
- The THICK BLUE dashed line is the 100-YEAR FLOODPLAIN BOUNDARY.
- The THIN BLUE dashed line between the two thick blue lines is the centerline of the stream.
- The nearest edge of the proposed gravel driveway is approximately 125' from the 100-YR FLOODPLAIN boundary, and approximately 15 feet higher in elevation (or above) this boundary. Limits of grading would be slightly closer, and lower, respectively.
- The proposed gravel driveway and limits of grading are approximately 250' from the stream centerline.





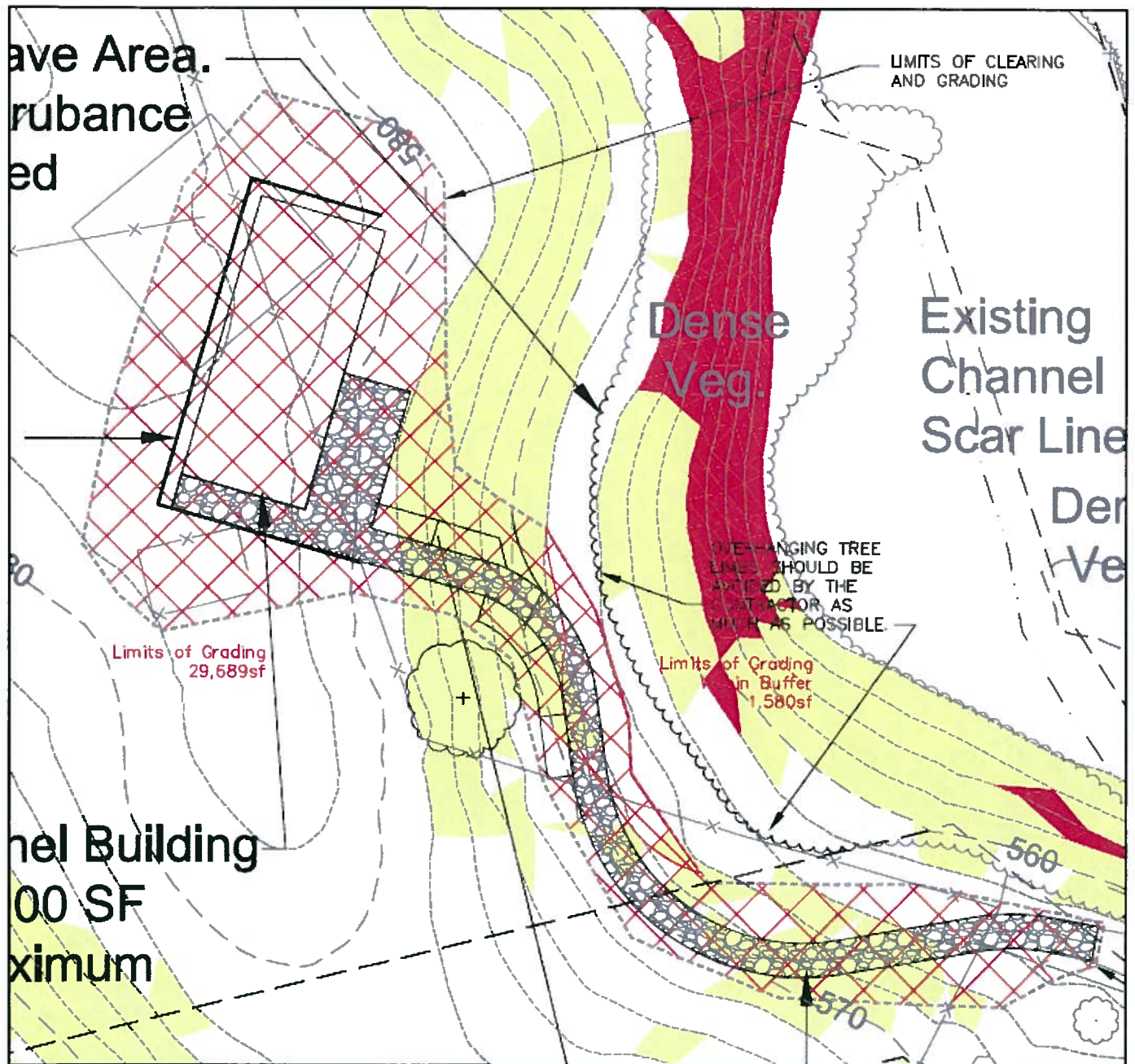
# ATTACHMENT 4.2 – SCENIC CREEK 150' BOUNDARY

- The GOLD dashed line is the 150' SCENIC CREEK BOUNDARY.
- The THIN BLUE dashed line is the centerline of the stream.
- The edge of the proposed driveway is approximately 100' from the Scenic Creek boundary.



**ATTACHMENT 4-3:**  
**STEEP and VERY STEEP SLOPES**

- The areas shaded in YELLOW are steep slopes (15% and less)
- The areas shaded in RED are very steep slopes (15 – 25%)

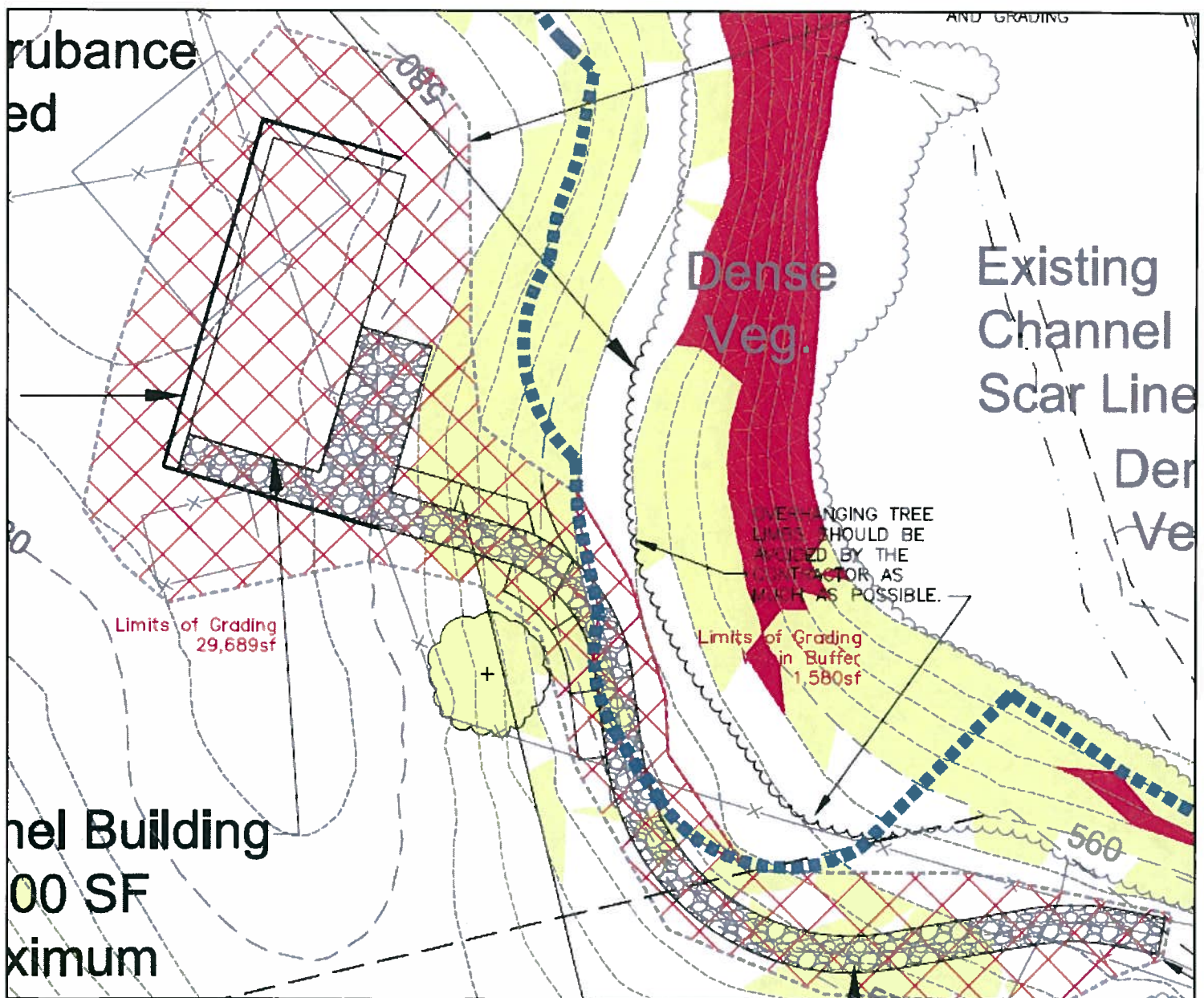




#### **ATTACHMENT 4-4:**

#### **50' MANAGEMENT BUFFER – MEASURED FROM VERY STEEP SLOPES**

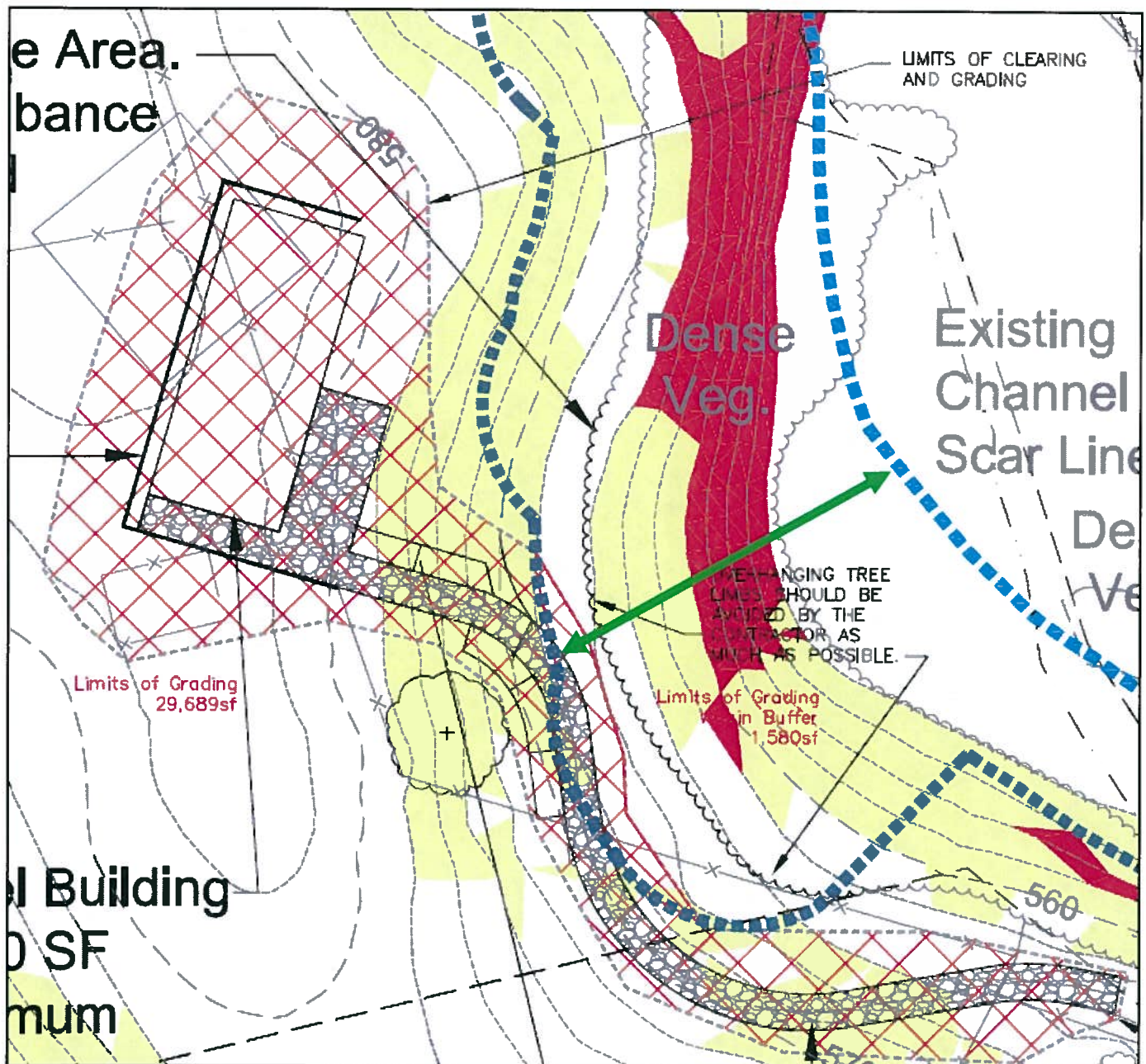
- The GRAY dashed line is the 50' MANAGEMENT BUFFER measured from the edge of very steep slopes.
- The proposed gravel driveway has a portion that is approximately 20' within this boundary for approximately 75', for a total of approximately 1,580 SF (0.04 acre).
- The limits of grading extend slightly further into the management buffer.



#### **ATTACHMENT 4-5:**

#### **100-YR FLOODPLAIN boundary and 50' MANAGEMENT BUFFER – MEASURED FROM VERY STEEP SLOPES**

- The BLUE dashed line is the 100-YEAR FLOODPLAIN BOUNDARY.
- The GRAY dashed line is the 50' MANAGEMENT BUFFER measured from the edge of very steep slopes.
- There is approximately 125' (green arrow) between these two boundaries when measured from the closest point of driveway encroachment.





**Cider Mill Property**

**SPEX 2008-0022**

**Special Exception approval to allow a kennel use, per Section 2-102 and Section 5-606(A) of the Revised 1993 Loudoun County Zoning Ordinance**

July 10, 2008

*Rev. March 4, 2009*

**STATEMENT OF JUSTIFICATION**

**Project History/Background:**

The owner of the site is Cerberus Farms, LLC. The Applicant is Tim Tonsor of Cerberus Farms, LLC. The owner and applicant requests approval of a special exception on 20.97 acres +/- of real property located off of Cider Mill Road in Loudoun County, specifically MCPI# 548-10-4925. The site is currently zoned AR-1 and subject to the FOD-Floodplain Overlay District and the Scenic Creek Valley Buffer and is under the Revised 1993 Zoning Ordinance. The current use on the site is single family detached.

The property contains 20.97 acres, a single family house, two barns and three sheds. The site will be used to train bomb/drug sniffing dogs. The proposed building/kennel will be used to house the dogs. The existing house will be used as living space for the trainers. The training takes approximately six to eight weeks. It is the intent for the trainers to live in the house during their training schedule. Therefore, the house will be utilized as a single family home. There will be no public access and no customers.

Formal work began on the subject project during the summer of 2005. Due to the inability of obtaining VDOT approval in a reasonable amount of time, we were unable to secure Loudoun County Site Plan approval prior to the zoning ordinance change of the property from A-3 to AR-1. Zoning Administration has since determined that this use is closest to a 'Kennel' thereby requiring a Special Exception in the AR-1 District..

**Location:**

The Property is located within the Blue Ridge Election District of Loudoun County, bounded on the south by Cider Mill Road, Rt. 751 and in close proximity to Charles Town Pike, Rt. 9. The parcels located to the north and west of the subject site are zoned AR-1 and the uses are 100+ acre farms. The parcels located to the east and south of the site and across from the site on Cider Mill Road are zoned AR-1 and the uses are Single Family. All of the surrounding parcels are governed under the Revised 1993 Zoning Ordinance.

### Statement of Operations:

The following is a statement on how normal operations will be conducted at the Covenant Canine Training Facility at Cider Mill Rd.

The Covenant Canine training concept is to house no more than four handlers in the existing house on the property. These student/handlers would house their canines in the small kennel that currently exists on the property. These students would stay on the property from 3 to 5 weeks depending on the length of their training.

- The majority of our canines would be housed in the proposed kennel, (no more than 30). These canines are in a transitional state meaning they would only be on site for no more that 2 months at a time. The number of dogs in the kennel could range from 1 – 30 at any given time depending on our operational training load.
- The dogs housed in the large kennel will be trained in what is termed as “imprinting”. This is where a dog is trained to respond to the presence of the target training odor, (explosives, narcotics, etc.). This training would be conducted inside one of the existing barns and would be entirely indoors. There would never be more that two dogs performing this together at any one time and they would be trained in separate interior, (fully enclosed) locations.
- Once the dogs are imprinted they are loaded up in the morning and taken off-site to train in other off –site locations.
- There will never be any training during the hours of darkness.
- The number of full time staff for Covenant Canine is presently three employees. The most full time staff on the property is 3. Due to our operational and training work load there is rarely an occasion when there is three full time personnel on the property.
- The only outdoor training done on the property will be done in the agility area. This area will be moved to the rear portion of the property and entirely fenced in and enclosed. This area will be used very little.
- Cleaning of the kennel will be scheduled as follows;  
8:00-9:00 AM Kennel cleaning a limited number of dogs will be in the outside runs until the inside is cleaned, then they will be placed back inside and another group is transferred outside. The number of dogs will be dictated by tolerable sound levels in the area.  
9:00-2:00 AM/PM Training Canines will be transferred from the kennel either off site of in the imprinting barn.  
2:00-4:00 PM Feeding Canines will be fed and allowed to break in the fenced in area before being put down for the night.
- Students will be either in the classroom or off site during their 8 hour training day.

### **Development Proposal of the Property:**

The Applicant and Owner seek approval of a special exception to allow kennel use, per section 2-102 and section 5-606(A) of the Revised 1993 Loudoun County Zoning Ordinance. The Applicant and Owner plan to build a 40' x 100' or 4,000 SF kennel building not to exceed 35 Ft. maximum per the zoning requirements. The kennel structure will meet all code requirements in Loudoun County. The kennel building is proposed to be located approximately 591 ft. +/- from the north property line, 262 Ft. +/- from the east property line, 190 Ft. +/- from the south property line and 330 Ft. +/- from the west property line. Due to the size of the subject property and the proposed location of the kennel building with regards to the property lines, it is highly unlikely that any noise generated by the use will impact the adjacent properties in the immediate area.

The facility is not open to the public, therefore there will be little traffic impact to Cider Mill Road. A commercial entrance is planned for the driveway that leads back to the kennel. The existing single family dwelling has an existing gravel driveway that will not be modified. Because the site is not open to the public, no lighting is being proposed at this time; therefore there will be no issues with glare or light trespass from the site onto adjacent properties. All required parking for this use is proposed to be located near the existing single family detached dwelling and/or the kennel building. The general location of these site elements can be seen on sheet 3 of the special exception application. Both the single family detached dwelling and the kennel building will be readily accessible to emergency vehicles at all times. The future site plan for the proposed kennel building will outline measures for fire hazard protection and measures for fire control.

Sheet 4 of 5 contains the proposed landscape buffering which is designed to adequately screen the site from adjacent properties. The surrounding properties at this time are suburban single family dwellings or 100+ acre farms, with the smallest adjacent lot being 3.15 acres +/- . As the landscape exhibit shows, the property will be screened with a buffer yard including a fence along the southwest and the frontage along Cider Mill Road. In addition, the northeast buffer yard is utilizing existing vegetation as a screen.

The existing building is served by an existing well and drainfield which will continue for the future. The proposed kennel will be served by a new well and septic system. No odors from the proposed kennel are anticipated which would negatively impact adjacent uses. All animal waste will be hauled off site per the applicant. There are no significant archeological, natural, historical features or landmarks on this property.

The property is located within the Rural Policy area. According to the Comprehensive Plan, properties located within the Rural Policy area are intended to retain the rural character of Loudoun County. The training facility is a minor impact on 20.97 acres +/- . The rural character of the parcel, including preservation of scenic views, will remain intact and so will the potential of future farm use.

**Conclusion:**

The Applicant/Owner's proposal for special exception is consistent with section 2-102 and the definition of a kennel as outlined in section 5-606(A). The proposal provides the Applicant/Owner with the ability to provide an essential service to global law enforcement and security agencies, while maintaining the rural character of the property and within the guidelines of the Comprehensive Plan.

Respectfully submitted,

**Patton Harris Rust & Associates**

**A Professional Corporation**

A handwritten signature in black ink, appearing to read 'Mark Thomas', with a stylized flourish at the end.

Mark Thomas, CLA

Director of Planning and Landscape Architecture



### Special Exception Issues for Consideration:

As set forth in Section 6-1310 of the Zoning Ordinance.

A Is the special exception consistent with the Comprehensive Plan?

*Yes. The property is located within the Rural Policy area. According to the Comprehensive Plan, properties located within the Rural Policy area are intended to retain the rural character of Loudoun County. The kennel/training facility is a small impact on 20.97 acres +/- . The rural character of the parcel, including preservation of scenic views, will remain intact and so will the potential of future farm use. The use is agriculturally based and will be compatible with adjacent farms and agricultural uses.*

B Will the proposed special exception adequately provide for safety from fire hazards and have effective measures of fire control?

*Yes. Both the single family detached dwelling and the kennel building will be readily accessible to emergency vehicles at all times. The site plan for the proposed kennel building will outline measures for fire hazard protection and measures for fire control. Copies of Federal Permits have been submitted with this application for the permitted explosives and drugs for training exercises.*

C Will the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impact the uses in the immediate area?

*No. Due to the size of the subject property and the proposed location of the kennel building with regards to the property lines, it is highly unlikely that any noise generated by the use will impact the adjacent properties in the immediate area. There has been continued correspondence and community reach-out by the applicant to the adjacent property owners. It is anticipated that there will be community support for this application. The applicant will have a community meeting on the site prior to the planning commission public hearing and will notify the adjacent owners of the meeting when the property is posted for the hearing (two weeks prior to the hearing).*

D Will the glare or light that may be generated by the proposed use negatively impact uses in the immediate area?

*No. Because the site is not open to the public, no lighting is being proposed at this time; therefore there will be no issues with glare or light emanating from the site onto adjacent properties.*

E Is the proposed use compatible with other existing or proposed uses in the neighborhood, and adjacent parcels?

*Yes. Since the use is generally agriculturally based, and the proposal is for a building that will be of agricultural design, the kennel will be compatible with adjacent farms and other agricultural used.*

A-

- F Is the existing or proposed landscaping, screening and buffer on the site and in the neighborhood sufficient to adequately screen surrounding uses?

*Yes. Sheet 4 of 5 contains the proposed landscape buffering which is designed to adequately screen the site from adjacent properties. As the landscape exhibit shows, the property will be screened with a buffer yard including a fence along the southwest and the frontage along Cider Mill Road. In addition, the northeast buffer yard is utilizing existing vegetation as a screen.*

- G Will the proposed special exception result in the preservation of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance?

*Yes. Since the kennel use is such a small impact on 20.97 acres +/-, the rural character of the parcel, including preservation of scenic views, will remain intact. The proposed building will have an agriculturally based character.*

- H Will the proposed special exception damage existing animal habitat, vegetation, water quality (including groundwater) or air quality?

*No. The proposed kennel will not damage existing animal habitat, vegetation, water quality, ground water supply, structural capacity of the soil, or air quality.*

- I Will the proposed special exception at the specified location contribute to or promote the welfare or convenience of the public?

*Yes. The product (trained dogs) will contribute to the health, safety and welfare of the general public by helping with law enforcement worldwide.*

- J Will the traffic expected to be generated by the proposed use be adequately and safely served by roads, pedestrian connections and other transportation services?

*Yes. A commercial entrance is planned for the driveway that leads back to the kennel. The existing single family dwelling has an existing gravel driveway that will not be modified.*

*The use is not anticipated to generate much traffic since it is not open to the public; therefore, there will be little impact to Cider Mill Road and the adjacent roadway system.*

- K In the case of existing structures proposed to be converted to uses requiring a special exception, the structures meet all code requirements of Loudoun County?

*Not applicable. The special exception involves the building of a new kennel building.*

- L Will the proposed special exception be served adequately by essential public facilities and services?

*Yes. The area is served by the Loudoun County Sherriff and the Volunteer Fire and Rescue departments.*

A-

M What is the effect of the proposed special exception on groundwater supply?

*The proposed kennel will not impact existing ground water supply.*

N Will the proposed use affect the structural capacity of the soils?

*No. The proposed kennel will not impact the structural capacity of the soil.*

O Will the proposed use negatively impact orderly and safe road development and transportation?

*No. The proposed use will not negatively impact orderly and safe road development and transportation systems.*

P Will the proposed special exception use provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan?

*Yes. The proposal will offer economic development activities in Western Loudoun most similar to agricultural uses which are the backbone of the Rural Policy Areas of the Comprehensive Plan.*

Q Will the proposed special exception consider the need of agriculture, industry, and businesses in future growth?

*Yes. The rural character of the parcel, including preservation of scenic views, will remain intact as well as the ability of continued agricultural use.*

R Will adequate on and off-site infrastructure be available?

*Yes. Adequate on and off-site infrastructure is available. An existing single family home currently resides on the property which is already utilizing this infrastructure.*

S Any anticipated odors which may be generated by the uses on site, and which may negatively impact adjacent uses?

*No. No odors from the proposed kennel are anticipated which would negatively impact adjacent uses. All animal waste will be hauled off site per the applicant.*

T Will the proposed special exception use sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and school areas?

*No. The proposed building will not generate anything out of the ordinary for the local area with respect to construction timing, neighborhood impact etc.*